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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,853	02/11/2004	William Michael Cannon	9525	3888

27752 7590 12/15/2005

THE PROCTER & GAMBLE COMPANY  
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CINCINNATI, OH 45224

EXAMINER

BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/776,853	<b>Applicant(s)</b> CANNON ET AL.	
	<b>Examiner</b> Seth Barney	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/2/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: Line 17 of claim 1 recites "said one or more spraying functions". It appears that "settings" should be "functions" to be consistent with line 5 of the claim. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,367,710 to Fan.

Fan discloses a sprayer having :

-a housing comprising a handle portion (10 and 2) for gripping in an operator's hand between the operator's palm and fingers.

-a valve system (111, 32,321,322,323,30,34,36,40) within the housing, the valve system having a configuration that provides more than one sprayer function. See column 3 lines 11 to 49.

-a selector switch (20) operatively connected to the valve system, the selector switch having positions for the more than one sprayer settings, where the selector switch is located at least in a portion of the handle portion (the entire apparatus of Fan

is held by the user, therefore the entire apparatus has been considered a handle) a distance from the portion of the handle portion that fits in the operator's fingers, wherein the distance is within the range sufficient to permit the operator to move the selector switch with the operator's thumb of the same hand that is holding the sprayer by the handle portion. See Figure 1.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,367,710 to Fan.

Fan discloses a spraying comprising:

-a housing comprising a handle portion (the entire apparatus of Fan is held by the user, therefore the entire apparatus has been considered a handle, more specifically 10 and 12) for gripping in an operator's hand.

-a valve system (111, 32,321,322,323,30,34,36,40) within the handle portion of the housing, the valve system having a configuration that provides three separate spray functions, wherein the valve system comprises:

-a bottom valve component (10)

-a top valve component (40) disposed above the bottom valve component, the top valve component having an underside.

-an inner valve component (30) positioned between the valve component and the top valve component, the inner valve component having a top surface (32) and having an opening therein (3212,322,323), wherein the inner valve component is rotateable relative to the bottom valve component and the top valve component, wherein at least one of the underside of the top valve component and the top surface of the inner valve component have a seal thereon. See Figure 1.

-a selector switch (20) operatively connected to the valve system, the selector switch having positions to set the valve to one or more sprayer settings. See column 3 lines 11 to 29.

Fan does not disclose that one of the settings is to turn the sprayer off. It is commonly known in the art to provide an off setting for spraying devices. It would have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the sprayer device of Fan with an additional valve position to block flow in order to easily turn off the sprayer without entirely shutting down the inlet flow.

### ***Response to Arguments***

7. Applicant's arguments filed October 3, 2005 have been fully considered but they are not persuasive. The Examiner maintains that Fan discloses a portion of a sprayer that can be gripped and acts as a handle portion (10 and 12). When held by a human hand, portions 10 and 12 act as a handle portion. Applicant has not claimed any other part except a handle portion, and as such the Examiner has done similar. The claimed apparatus only requires a handle portion.

### ***Conclusion***

8. The Examiner notes that previously cited reference U.S. Patent No. 4,903,897 to Hayes discloses a sprayer having a hand-actuated knob in the handle and has a off setting (more than one spray setting) such that the selector switch is located above at least a portion of the handle portion at a distance from the portion of the handle that fits in the operator's fingers and is particularly relevant to claim 2.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sb

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